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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,991	07/09/2003	Federico Guillermo Jaekel	076029-0304408	9238
909	7590	03/02/2005	EXAMINER	
PILLSBURY WINTHROP, LLP			RODRIGUEZ, PAMELA	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	

3683

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/614,991

Applicant(s)

JAEL, FEDERICO GULLERMO

Examiner

Pam Rodriguez

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11/19/04 & 12/16/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. The Amendments filed November 19, 2004 and December 16, 2004 have both been received and considered.

#### ***Specification***

2. The disclosure is objected to because of the following informalities: on page 3 of the specification in lines 8 and 9 of paragraph 0014 the numbers "22" should read —24— to be consistent with the drawings and the previous lines of the specification which refer to the upper and lower mount structures as numerals 20 and 24.

Appropriate correction is required.

(NOTE: this objection has been repeated as no amendment to this effect was present in applicant's papers filed November 19, 2004 and December 16, 2004)

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent No. 19840244 to Jahnel.

Regarding Claim 1, Jahnel discloses a vehicle suspension system (see Figure 1) having all the features of the instant invention including: a damping device 5/6/10 having first and second opposite portions 6 and 10 moveable in opposite directions toward and away from one another (see Figure 1), wherein the damping device 5/6/10 has the first portion 6 capable of being adapted to be coupled to a motor vehicle frame (via element 8) and the second portion 10 is capable of being adapted to be coupled to a motor vehicle wheel mount structure (via element 11), wherein the damping device is adapted to dampen movement of the portions 6 and 10 toward or away from one another, and first and second magnetic structures (elements 13/9 and 12/5) connected to the first and second portions 6 and 10 respectively (via elements 5, 6, 7, and 9), wherein the first and second magnetic structures have like magnetic poles opposing one another (see Figure 1 and the negative polarities facing one another in elements 13 and 12) to create a resilient magnetic bias to repel the first and second portions 6 and 10 during a relative movement of the portions toward one another, and wherein the first and second magnetic structures 13/9 and 12/5 are disposed radially outwardly from the damping device 5/6/10 (see Figure 1 and note that if one defines the radial direction to be the direction to the left or right of rods 6 and 10, at least portions of magnets 12 and 13 can be said to be disposed radially outwardly from the damping device).

Regarding Claim 2, see outer structure 1 in Figure 1.

Regarding Claim 3, see Figure 1 wherein interior surfaces of sleeve 1 contact the outermost ends of elements 9 and 5 (in which magnets 13 and 12 adhere thereto) and slide at least to some extent relative to one another.

Regarding Claim 4, see the entire interior surface of outer structure 1 which forms a fluid-tight seal between itself and the magnetic structures 13/9 and 12/5.

Regarding Claim 5, see Figure 1 where inherently a gas (air) would be present within outer structure 1.

Regarding Claim 6, see cavity 26/4.

Regarding Claim 7, note that the gas present within cavity 26/4 would inherently bias the magnetic structures 13/9 and 12/5 away from one another at least to the same extent as applicant's.

Regarding Claim 8, see elements 2 and 3 readable as "boots" of the outer structure 1 as they would absorb at least some shock to the suspension system.

Regarding Claims 9 and 10, see elements 5/6 of the damping device.

Regarding Claim 11, if the exterior surfaces of portions 6 and 10 are defined to be those portions of the elements located within outer structure 1, then the first and second magnetic portions 13/9 and 12/5 are readable as being disposed on these exterior surfaces. (note: that the definition of interior and exterior is arbitrary depending on how one defines the terms in relation to the other components of the suspension system).

Regarding Claim 12, see the apertures extending through elements 9 and 5 of the first and second magnetic structures, wherein portions 6 and 10 are received within these apertures.

Regarding Claim 13, see the plurality of magnets 13 and the plurality of magnets 12.

Regarding Claim 14, see Claims 1 and 12 above.

Regarding Claims 15 and 16, see Claims 9 and 10.

Regarding Claim 17, see Claim 2.

Regarding Claim 18, see Claim 3.

Regarding Claim 19, see Claim 4.

Regarding Claim 20, see Claims 5 and 6.

### ***Response to Arguments***

5. Applicant's arguments filed November 19, 2004 have been fully considered but they are not persuasive.

Firstly, with regards to applicant's arguments concerning his new limitation of the first and second magnetic structures being disposed radially outwardly from the damping device, the examiner contends that this limitation is still met by the Jahnel reference as described in the Claim 1 rejection above. As shown in Figure 1 of the reference, if one defines the radial direction to be the direction to the left or right of rods 6 and 10, at least portions of magnets 12 and 13 can be said to be disposed radially outwardly from the damping device itself.

With regards to applicant's arguments directed towards Claims 2 and 17, the examiner contends that these limitations are still taught by the Jahnel reference. In particular, structure 1 does receive and contain at least portion 5 of the damping device. Thus, this limitation is still meant by the reference.

Regarding applicant's arguments directed towards Claims 4 and 18, the examiner maintains her position with respect to these claims as well. Since magnets 12 and 13 contact outer structure 1 to form a tight seal between the components, they must and do engage one another (magnet 12 engaging the inner wall of outer structure 1 and magnet 13 also engaging the inner wall of outer structure 1). Thus, the end portions of magnets 12 and 13 would slide, at least to some extent due to friction, with respect to the outer structure inner walls.

And lastly regarding applicant's arguments with respect to Claims 10 and 16, the examiner maintains her rejection of these claims. One of ordinary skill in the art would be apprised of the fact that a piston damper with a corresponding piston rod would constitute a "strut" structure. Therefore, since piston 5 and rod 6 of Jahnel make up such a structure, this limitation is also still taught by the reference.

It is for these reasons that the rejections have been maintained.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

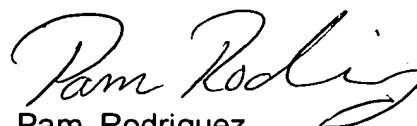
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 703-308-3657. The examiner can normally be reached on Mondays 5 am -3:30 pm and Tuesdays 5 am -11 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Pam Rodriguez  
Primary Examiner  
Art Unit 3683  
2/1/05

Pr  
02/01/05